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# FEDERAL COMMUNICATIONS COMMISSION Washington, D. C. 20554 JAN 0 9 2004

OFFICE OF MANAGING DIRECTOR

John A. Borsari, Esq. Borsari & Assoc., PLLC Post Office Box 29 Arlington, VA 22210

> Re: Aerco Broadcasting Corporation Request for Refund of FYs 1998 through 2001 Regulatory Fees Fee Control No. 0109048835140008

Dear Mr. Borsari:

This is in response to your request dated August 6, 2003, filed on behalf of Aerco Broadcasting Corporation (Aerco), for a refund of the fiscal years (FYs) 1998 through 2001 regulatory fees for Station WTRA(TV), Mayaguez, Puerto Rico. Our records reflect that the regulatory fees were paid in the amount of \$1,075.00 for FY 1998 (plus a \$268.75 late charge penalty for late payment of the regulatory fee), \$1,175.00 for FY 1999, \$1,150.00 for FY 2000 (plus a \$287.50 late charge penalty for late payment of the regulatory fee), and \$1,150.00 for FY 2001, for a total payment of \$5,106.25.

Citing Aerco Broadcasting Corp. v. FCC, Case No. 01-1466, 51 Fed.Appx. 23, 2002 WL 31640471 (D.C. Cir., Nov. 21, 2002) (per curiam) (Aerco Broadcasting Corp.) (affirming Carlos J. Lastra, 16 FCC Rcd 17268 (2001) (Lastra)), you assert that the "FCC canceled the license for WTRA effective February 9, 1997." You therefore claim that "in view of the FCC's determination that the license was forfeited in February, 1997 that the regulatory fee . . . was not due and [owing] for the calendar years 1998 through 2001."

Our records establish that, on September 14, 1999, the Mass Media Bureau (Bureau) canceled the license for Station WTRA(TV) because of the licensee's (i.e., Carlos J. Lastra's (Lastra's)) failure to operate the station for twelve consecutive months. Because the Commission canceled the license to operate Station WTRA(TV) before October 1, 1999, and because the Commission did not subsequently reauthorize Lastra to operate the station, no regulatory fee for Station WTRA(TV) was required for FYs 2000 or 2001. We therefore find that a refund of the regulatory fees for FYs 2000 and 2001

<sup>&</sup>lt;sup>1</sup> See Lastra at 17268-69 (affirming the Letter from Barbara A. Kreisman, Chief, Video Services Division, Mass Media Bureau, FCC to Carlos J. Lastra (dated Sept. 14, 1999) (September 14, 1999 Letter Decision)), aff'd, Aerco Broadcasting Corp.

<sup>&</sup>lt;sup>2</sup> See Assessment and Collection of Regulatory Fees for Fiscal Year 2000, 15 FCC Rcd 14478 at para. 44 (2000) ("For licensees, permittees and holders of other authorizations in the . . . Mass Media [Services] . . . whose fees are not based on a subscriber, unit or circuit count, fees must be paid for any authorization issued on or before October 1,

is warranted, including a refund of the late charge penalty for FY 2000. See 47 C.F.R. §1.1160(a)(1). Because Lastra was licensed to operate Station WTRA(TV) from July 22, 1988 until the Commission canceled the authorization on September 14, 1999, a regulatory fee for the station was owed for FYs 1998 and 1999. We therefore deny your request for a refund of the regulatory fees for FYs 1998 and 1999.

We find no evidence to support your assertion that the license for the station was "canceled" or "forfeited" on February 9, 1997. In Lastra, the case upon which you rely for support, the Commission, citing the September 14, 1999 Letter Decision, stated that "[i]n that [September 14, 1999] ruling, the Division Chief cancelled the license of WTRA(TV)... for the licensee's failure to operate the station for twelve consecutive months." Emphasis added. Moreover, the September 14, 1999 Letter Decision specifically "cancel[ed] the station's authorization and call letters[.]"

We therefore grant your request for a refund with respect to the regulatory fees for FYs 2000 and 2001, and deny your request with respect to the regulatory fees for FYs 1998 and 1999. A check, made payable to the maker of the original check, and drawn in the amount of \$2,300.00, will be sent to you at the earliest practicable time. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

Mark A. Reger

Chief Financial Officer

<sup>1999.</sup> Regulatory fees are due and payable by the holder of record of the license or permit of the service as of October 1, 1999." (Emphasis in original)).

<sup>3</sup> See September 14, 1999 Letter Decision.

<sup>&</sup>lt;sup>4</sup> See Assessment and Collection of Regulatory Fees for Fiscal Year 1999, 14 FCC Rcd 9868 at para. 59 (1999) ("For licensees, permittees and holders of other authorizations in the . . . Mass Media [Services]. . . whose fees are not based on a subscriber, unit or circuit count, fees must be paid for any authorization issued on or before October 1, 1999. Regulatory fees are due and payable by the holder of record of the license or permit of the service as of October 1, 1998." (Emphasis in original)).

LAW OFFICES

0109048835140008 BORSARI & ASSOC., PLC

P.O. BOX 29 ARLINGTON, VA 2011 (FIVE) (703) 524-5800

FACSIMILE (703) 524-4329

WRITER'S E-MAIL JOHN@BORSARI.COM FCC 2111 WILSON BLVD., SUITE 700 ARLINGTON, VA. 22201

2003 AUG 20 POOR ADDEMARLE ST. NW. SUITE 100 2 WASHINGTON, D.C. 20016

ACCOUNT PROCESSING PLEASE RESPOND TO: GROUP-DP TRECEIVED Arlington

August 6, 2003

AUG - 6 2003

Hon. Marlene H. Dortch Secretary Federal Communications Commission 236 Massachusetts Avenue, N.E., #110 Washington, DC 20002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

ATTN: Office of the Managing Director Billings and Collections Branch

Re:

Aerco Broadcasting Corporation

WTRA-TV, Mayaguez, PR

Facility ID#: 4083

Request for Refund of Regulatory Fee

Madam:

On behalf of Aerco Broadcasting Corporation we are requesting a refund of the annual regulatory fee for the years 1998-2001 (totaling \$5,106.25) paid by Aerco for WTRA, which fee was not due since the WTRA license was canceled in February 1997.

This request is filed pursuant to §1.1113 ("Return or refund of charges") which provides as follows:

- (a) All refunds will be issued to the payer named in the appropriate block of the FCC Form 159. The full amount of any fee submitted will be returned or refunded, as appropriate, under the authority granted at §0.231.
  - (1) When no fee is required for the application or other filing.
  - (2) When the fee processing staff or bureau/office determines that an insufficient fee has been submitted within 30 calendar days of receipt of the application or filing and the application or filing is dismissed.
  - (3) When the application is filed by an applicant who cannot fulfill a prescribed age requirement.

### BORSARI & ASSOC., PLC

#### Page 2

- (4) When the Commission adopts new rules that nullify applications already accepted for filing, or new law or treaty would render useless a grant or other positive disposition of the application.
- (5) When a waiver is granted in accordance with this subpart.
- (6) When an application for new or modified facilities is not timely filed in accordance with the filing window as established by the Commission in a public notice specifying the earliest and latest dates for filing such applications.

On November 21, 2002 the US Court of Appeals for the DC Cir affirmed the decision of the FCC wherein the FCC canceled the license for WTRA effective February 9, 1997. See, In re Carlos J. Lastra, 16 FCC Rcd 17268 (2001), affirmed Aerco Broadcasting Corporation v. FCC, Case No 01-1466 (Judgment issued November 21, 2002). It is clear that in view of the FCC's determination that the license was forfeited in February, 1997 that the regulatory fee, for station's existing October 1 of each year, was not due and owning for the calendar years 1998 thru 2001. Accordingly, Aerco is entitled to a refund of the annual regulatory license fees, which were not due, totaling \$5,106.25 for the following years:

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2001 $1,150.00 ✓
2000 1,150.00 ✓
⇒ 2000 287.50 (25% late fee)
1999 1,175.00 ✓
1998 1,075.00 ✓
⇒ 1998 268.75 (25% late fee)
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A copy of FCC Form 159s and the licensee's checks are attached.

Please send the check payable to AERCO BROADCASTING CORPORATION to the undersigned.

Should any questions arise with respect to this matter please contact this office, pursuant to Section 1.12 of the Commission's rules.

John A. Borsari

RI& ASSOC.,PLLC

Enclosures

cc: Angel O. Roman-Lopez

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Approved by OMB 3060-0589

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SEE PUBLIC BURDEN ON REVERSE

FCC PORM 159

FEBRUARY 2000 (REVISED)

# FEDERAL COMMUNICATIONS COMMISSION Washington, D. C. 20554

DEC 0 3 1998

OFFICE OF MANAGING DIRECTOR

AERCO BROADCASTING CORPORATION 1508 CALLE BORI SAN JUAN PR 00927

Dear Sir or Madam:

This letter is a follow-up to your delinquent payment of your 1998 annual regulatory fee(s) in the amount of \$4,336.00.

Payment of the fees was due to the Federal Communications Commission (FCC) by September 18, 1998. In accordance with Section 9 [47 U.S.C. 159(c)(1)], a 25 percent late penalty in the amount \$1,084.00 has been assessed. Unless you can show just cause why the penalty is inapplicable or should otherwise be waived or deferred, payment is due within 20 days from the date of this letter.

Payment should be sent to the Federal Communications Commission, Regulatory Fees, P.O. Box 358835, Pittsburgh, PA 15251-5835 along with the enclosed; Remittance Advice (FCC Form 159). Instructions on how to complete this form are also enclosed. The payment type code to be used in Block 20A of FCC Form 159 for this penalty payment is "FINE".

If you have any documentation that will establish that the fee was paid by September, 18, 1998, such as a courier-dated receipt, please include this in your response so that we can clear our records.

You are cautioned that failure to respond and/or pay the penalty will subject you to further sanctions as defined by 47 CFR Section 1.1164 of our Rules. These sanctions include subjecting the delinquent payor's pending applications to dismissal, and may require a delinquent payor to show cause why its existing instruments of authorization should not be revoked. Further sanctions include interest charges, and the full cost of collection to the Federal Government pursuant to section 3720A of the Internal Revenue Code, 31 U.S.C. 3717, and the provisions of the Debt Collection Act, 31 U.S.C. 3717.

If you have any questions, you may contact me at (202) 418-1995.

Sincerely,

Regina W. Dorsey, Chief

Billings & Collections Branch

Enclosures

#### Close Window

Registration Details	
FRN:	0003732435
Registration Date:	08/15/2000 03:01:21 PM
Last Updated:	12/28/2001 02:41:36 PM
Businesa Name:	Aerco Broadcasting Corporation
Business Type:	Private Sector, Corporation
Contact Organization:	
Contact Position:	President
Contact Name:	Mr. Angel O. Roman Lopez
Contact Address:	1508 Calle Bori Urb Antosanti San Juan, PUERTO RICO 00927 United States
Contact Email:	angel@aercobroadcasting.com
Contact Phone:	(787) 756-8700
Contact Fax:	(787) 765-2965

# **Payment Transactions Detail Report**

BY: FEE CONTROL NUMBER

Date: 11/25/2003

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## **Payment Transactions Detail Report**

BY: FEE CONTROL NUMBER

Date: 11/25/2003

Fee Control Number	Payor Name	Fcc Account Number	Payer TIN	Received Date	
0009298835080001	AERCO BROADCASTING CORPORATION	WP00031362	0000004077	)9/28/2000 00:00:00	<del></del>
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Payment Amount	Current Balance	Seq Num	Payment Type Code	Quantity	Callsign Other Id	Applicant Name	Applicant Zip	Bad Check	Detail Amount	Trans Code	Payment Type
\$5,899.00	\$5,899.00	3	0069	1	KFR948	AERCO BROADCASTING CORPORATION	009276116		\$12.00	1	PMT
\$5,899.00	\$5,899.00	4	0069	1	KYX74	AERCO BROADCASTING CORPORATION	009276116		\$12.00	1	PMT
\$5,899.00	\$5,899.00	2	0028	1	WQBSAM	AERCO BROADCASTING CORPORATION	009276116		\$3,575.00	1	PMT
\$5,899.00	\$5,899.00	1	0063	1	VTUL	AERCO BROADCASTING CORPORATION	009276116		\$1,150.00	1	PMT
\$5,899.00	\$5,899.00	5	0063	1	WTRATV	AERCO BROADCASTING CORPORATION	009276116		\$1,150.00	1	PMT
5						•		_	\$5,899.00		

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#### RAMIS ACCOUNTS RECEIVABLE - (c) DSG, Inc. RECEIPTS DETAIL REPORT SORTED BY TRANSACTION DATE, CD No., FEE CONTROL No.

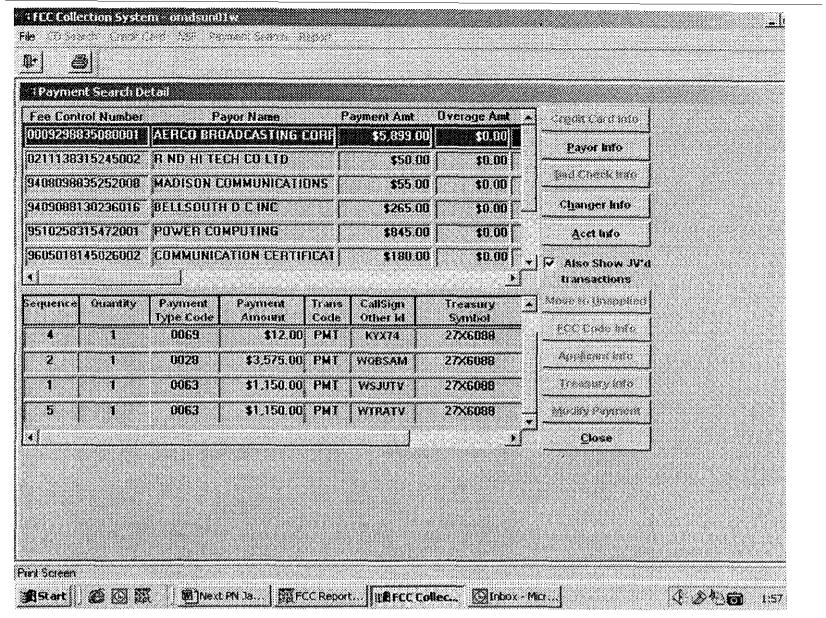
PAGE 1 11/25/2003 11:49:19

TRANSACTION

CD No.	CD DATE FEE CONTROL NO.	FRN	PAYER NAME	DATE	RECEIPT AMOUNT
560454	4/26/02 0204268190526001	0003732435	Aerco Broadcasting Corporation	4/25/02	\$1,065.00
Seq: PTC: Applicant i	1 call sign: WQBSAMID57 FCC Co MMR QTY: Name: AERCO BROADCASTING CORPOR 508 CALLE BORI	de 1: 1 Applied Amt:		Tin Number:	
Applicant !	2 Call sign: WQBSAMID57 FCC Co MOR QTY: Wame: AERCO BROADCASTING CORPOR 508 CALLE BORI	de 1: 1 Applied Amt: ATION	FCC Code 2: 570.00	Tin Number:	0066035662
560555	9/19/02 0209198835023001	0003732435	Aerco Broadcasting Corporation	9/18/02	\$5,195.00
Applicant N	1 call sign: wQBSAM FCC Co 0228 QTY: Name: AERCO BROADCASTING CORPOR 508 CALLE BORL URB ANTONSANTI	de 1: ID573 1 Applied Amt: ATION	FCC Code 2: SANJUANPR 4100.00	Tin Number:	0660356552
Applicant N	2 Call Sign: WSJUTV FCC Co 0263 QTY: Name: AERCO BROADCASTING CORPOR 508 CALLE BORL URB ANTONSANTI	de 1: ID4077 l Applied Amt: ATION	FCC Code 2: SANJUANPR 1075.00	Tin Number:	0660356552
Applicant N	3 Call Sign: KFR948 FCC Co 0269 QTY: Name: AERCO BROADCASTING CORPOR 508 CALLE BORL URB ANTONSANTI	ode 1: 1 Applied Amt: ATION	FCC Code 2: SANJUANPR 10.00	Tin Number:	0660356552
Applicant N	4 Call Sign: KYX74 FCC Co 0269 QTY: Name: AERCO BROADCASTING CORPOR 508 CALLE BORL URB ANTONSANTI	ode 1: 1 Applied Amt: ATION	FCC Code 2: SANJUANPR 10.00	Tin Number:	0660356552

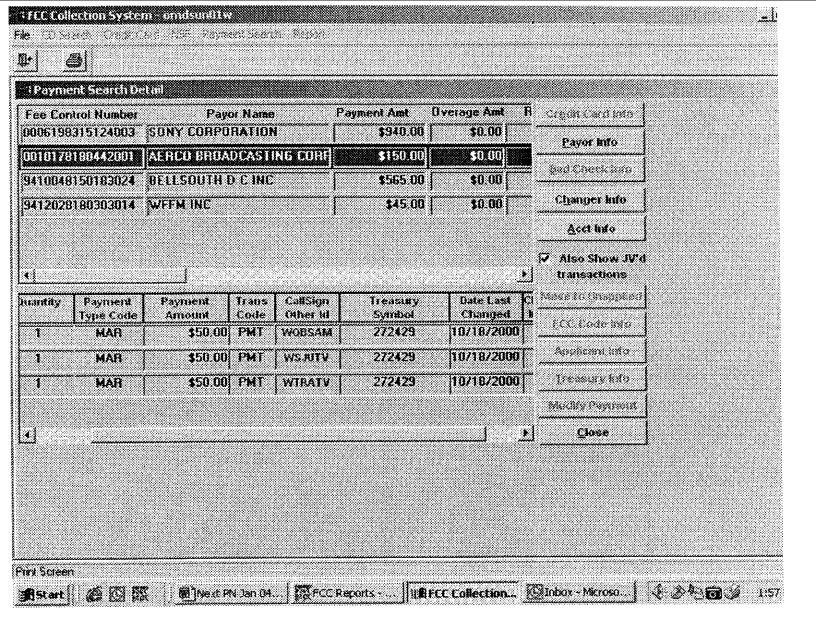
Total:

\$6,260.00

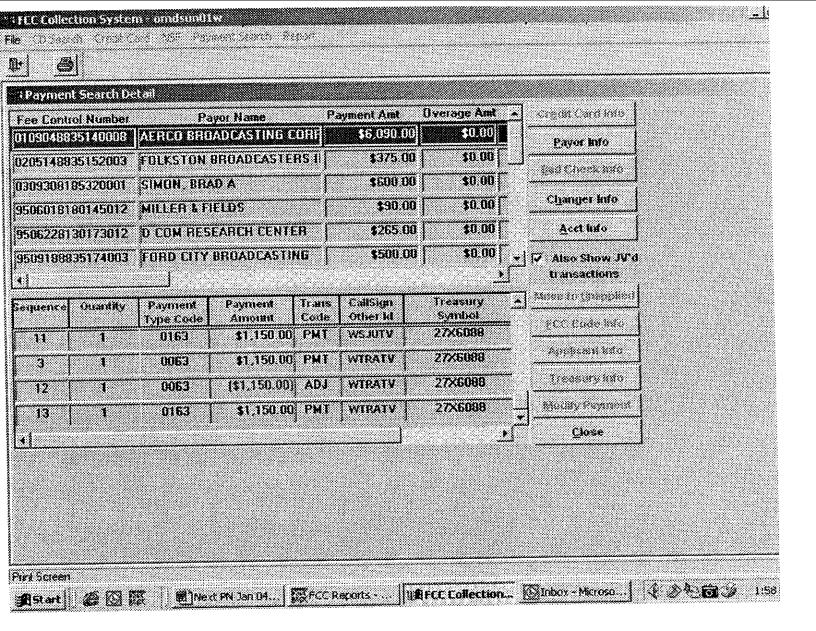


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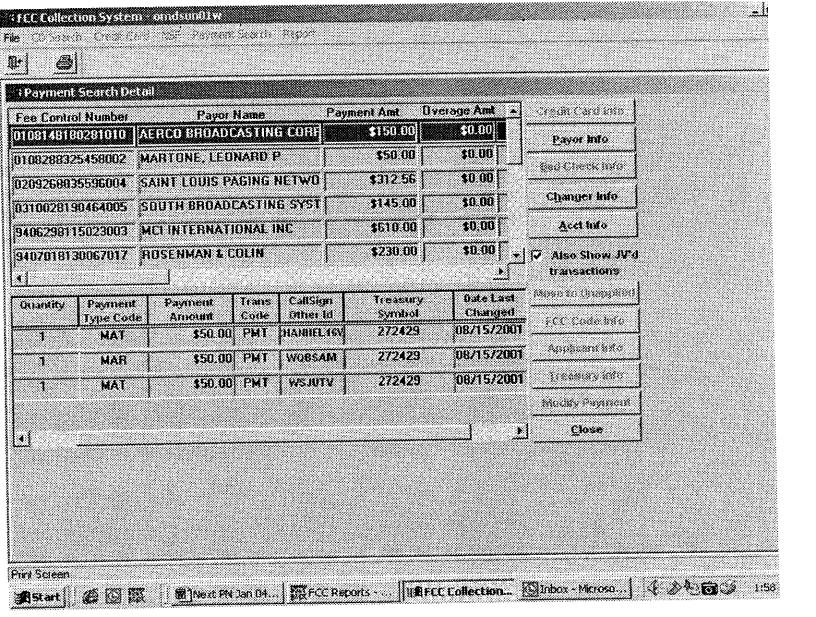


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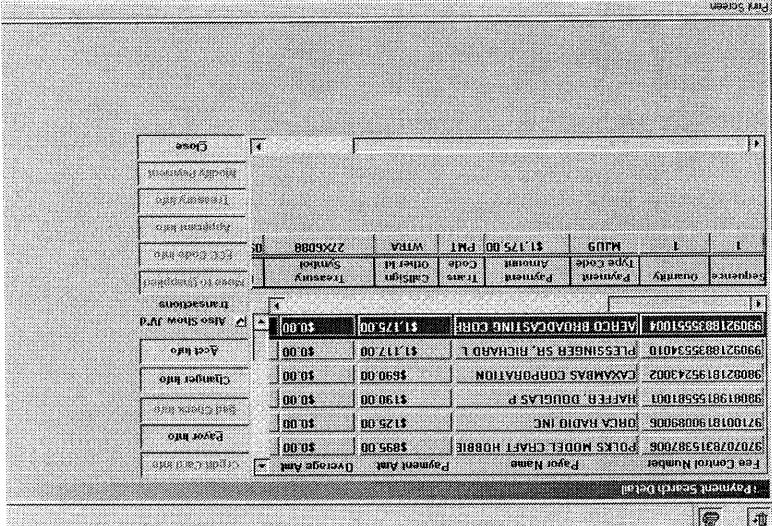
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Refund WTRA-TV

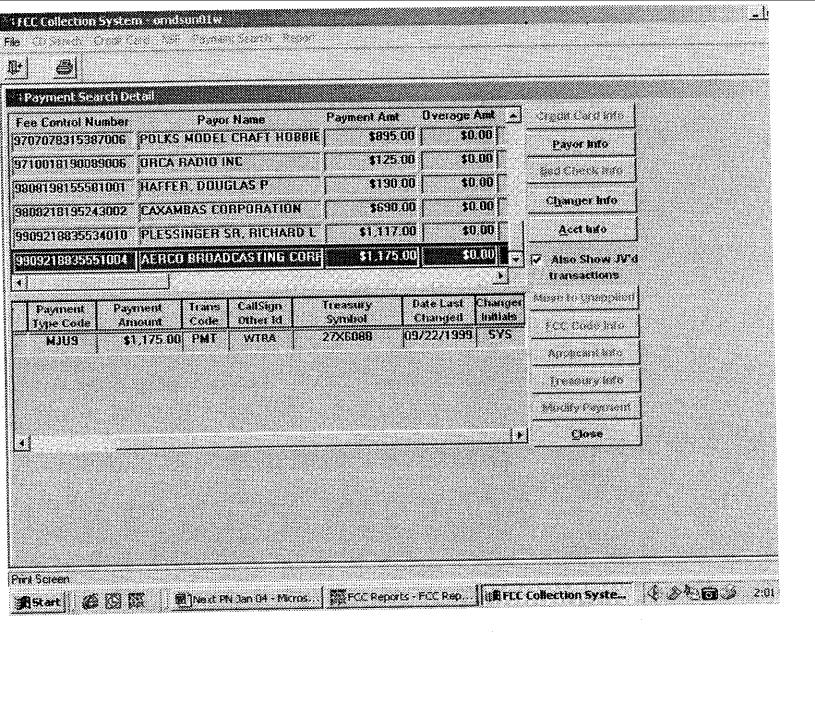


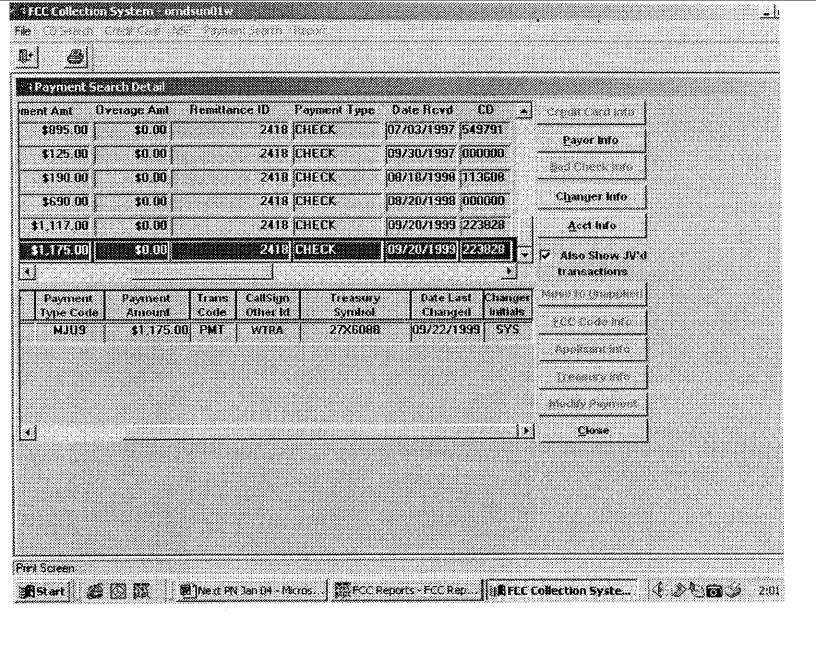


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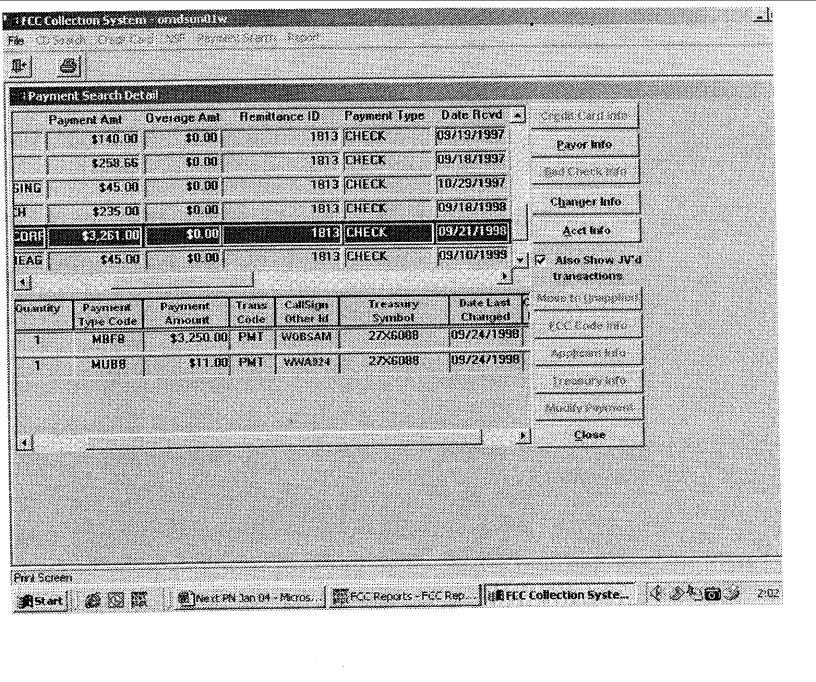
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